

# § 301.6316-7

# 26 CFR Ch. I (4-1-09 Edition)

nonconvertible foreign currency is \$893.88, determined as follows:

Estimated adjusted gross income .....	\$13,000.00
Less: Allowable deductions .....	4,000.00
Estimated taxable income .....	9,000.00
Tax computed under section 2 .....	1,940.00
Ratio of estimated adjusted gross income to be received in nonconvertible foreign currency to entire estimated adjusted gross income (\$8,000÷\$13,000) (percent) .....	61.54
Portion of above tax attributable to nonconvertible foreign currency (\$1,940×61.54 percent) .....	1,193.88
Less: Credit for foreign taxes expected to be paid on Fulbright grant .....	300.00
Portion of estimated tax which is attributable to amounts to be received during the taxable year in nonconvertible foreign currency .....	893.88

(v) The portion of the estimated tax which is payable in U.S. dollars is \$426.32, determined as follows:

Tax computed under section 2 .....	\$1,940.00
Less: Total allowable estimated credits .....	619.80
Total estimated tax .....	1,320.20
Less: Portion of estimated tax payable in foreign currency .....	893.88
Portion of estimated tax payable in U.S. dollars .....	426.32

(c) *Payment of estimated tax.* (1) The provisions of §301.6316-5 relating to the certified statement, determination of the tax, and the depositing of the foreign currency shall apply for purposes of this section. The full amount of estimated tax payable in foreign currency, as determined under paragraph (b) of this section, may be deposited before the date prescribed for the payment thereof.

(2) Every taxpayer making a deposit of foreign currency in accordance with this paragraph shall tender to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, the original of the receipt from the disbursing officer as payment, to the extent of the amount represented thereby in U.S. dollars, of the estimated tax. For the dates prescribed for the payment of estimated tax, see sections 6153 and 6161 and §§1.6153-1 to 1.6153-4, inclusive, and §1.6161-1 of this chapter (Income Tax Regulations). A taxpayer should make the deposit required by this paragraph in ample time to permit him to tender such receipt by the date prescribed for payment of the estimated tax.

(d) *Credit on return for the taxable year.* The receipt given by the dis-

bursing officer of the Department of State and tendered in payment of estimated tax under this section shall, for purposes of paragraph (a)(2) of §301.6316-3, be considered as payment on account of the tax for the taxable year. The amount so considered to be paid shall be the amount in U.S. dollars represented by the receipt.

## § 301.6316-7 Payment of Federal Insurance Contributions Act taxes in foreign currency.

(a) *In general.* The taxes imposed on employees and employers by sections 3101 and 3111, respectively, of chapter 21 of the Code (Federal Insurance Contributions Act) or the corresponding sections of the Internal Revenue Code of 1939 may, with respect to wages (as defined in section 3121(a) of chapter 21 of the Code or the corresponding section of the Internal Revenue Code of 1939) paid in nonconvertible foreign currency (as defined in paragraph (b) of §301.6316-2) for services performed on or after January 1, 1951, be paid in that currency if all such wages—

(1) Are paid from funds made available to a foundation or commission established in a foreign country pursuant to an agreement made under the authority of section 32(b) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1641(b)(2)), or established or continued pursuant to an agreement made under authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451); and

(2) Are paid to a U.S. citizen for services performed in the employ of such foundation or commission.

(b) *Return requirements—*(1) *Statements required.* (i) A return on which payment of Federal Insurance Contributions Act taxes is made in accordance with this section shall have attached thereto a statement, certified by the foundation or commission filing the return, stating that the foundation or commission is an organization established pursuant to an agreement made under authority of section 32(b) of the Surplus Property Act of 1944, as amended, or established or continued pursuant to an agreement made under authority of the Mutual Educational and Cultural Exchange Act of 1961, as amended.

(ii) The taxpayer shall also attach to the return a statement showing the rates of exchange used in determining in United States dollars the wages reported on the return and the taxes due with respect thereto. See paragraph (c)(1) of this section.

(2) *Cross references.* For the place for filing returns of the Federal Insurance Contributions Act taxes, see § 31.6091-1(c) of this chapter (Employment Tax Regulations). For the time for filing returns of the Federal Insurance Contributions Act taxes, see § 31.6071(a)-1 of this chapter (Employment Tax Regulations).

(c) *Payment of tax*—(1) *Determination of the tax.* In determining in U.S. dollars the wages required to be reported on the return and the taxes due with respect thereto, the taxpayer shall use the rate of exchange which most clearly reflects the correct equivalent in dollars, whether it be the official rate, the open market rate, or any other appropriate rate.

(2) *Deposit of foreign currency with disbursing officer.* (i) After determination is made in U.S. dollars of the Federal Insurance Contributions Act taxes with respect to wages paid in nonconvertible foreign currency, the amount so determined shall be deposited in the same nonconvertible foreign currency with the disbursing officer of the Department of State for the foreign country where the fund is located from which such wages were paid. The amount of the foreign currency to be deposited shall be that amount which, when converted at the rate of exchange used on the date of deposit by the disbursing officer for the acquisition of such currency for his official disbursements, equals the taxes determined in U.S. dollars.

(ii) The disbursing officer may rely upon the taxpayer for the determination of the amount of tax payable in foreign currency but may not accept any such currency for deposit until the taxpayer has presented for inspection the certified statement referred to in paragraph (b)(1) of this section. Upon acceptance of foreign currency for deposit the disbursing officer shall give the taxpayer a receipt in duplicate showing the name and address of the depositor, the date of the deposit, the

amount of foreign currency deposited and its equivalent in U.S. dollars on the date of deposit, and the kind of tax for which the deposit is made.

(iii) Every taxpayer making a deposit of foreign currency in accordance with this paragraph shall attach to the return required to be filed in accordance with paragraph (b) of this section the original of the receipt given by the disbursing officer. Tender of such receipt to the Director of International Operations shall be considered as payment of tax in an amount equal to the U.S. dollars represented by the receipt.

(iv) A taxpayer shall make the deposit required by this paragraph in ample time to permit it to attach the receipt to its return for filing within the time prescribed by § 31.6071(a)-1 of this chapter (Employment Tax Regulations).

#### § 301.6316-8 Refunds and credits in foreign currency.

(a) *Refunds.* The refund of any overpayment of tax which has been paid under section 6316 in foreign currency may, in the discretion of the Commissioner, be made in the same foreign currency by which the tax was paid. The amount of any such refund made in foreign currency shall be the amount of the overpayment in U.S. dollars converted, on the date of the refund check, at the rate of exchange then used for his official disbursements by the disbursing officer of the Department of State in the country where the foreign currency was originally deposited.

(b) *Credits.* Unless otherwise in the best interest of the Internal Revenue Service, no credit of any overpayment of tax which has been paid under section 6316 in foreign currency shall be allowed against any outstanding liability of the person making the overpayment except in respect of that portion or the liability which, in accordance with § 301.6316-1 or § 301.6316-7, would otherwise be permitted to be paid in the same foreign currency.

#### § 301.6316-9 Interest, additions to tax, etc.

Any reference in §§ 301.6316-1 to 301.6316-8, inclusive, to “tax” shall be